



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0019; Notice 1]

Utilimaster Corporation, Receipt of Petition for  
Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration, DOT

**ACTION:** Receipt of Petition

**SUMMARY:** Utilimaster Corporation (Utilimaster)<sup>1</sup> has determined that certain model year 2009-2011 Utilimaster walk-in van-type trucks manufactured between September 1, 2009, and December 22, 2011, do not fully comply with paragraph S4.2.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 206, *Door Locks and Door Retention Components*. Utilimaster has filed an appropriate report dated December 30, 2011, pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR Part 556), Spartan Motors, Inc.<sup>2</sup>, on behalf of Utilimaster has submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

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<sup>1</sup> Utilimaster Corporation, a wholly owned subsidiary of Spartan Motors, Inc., is manufacturer of motor vehicles and is registered under the laws of Delaware.

<sup>2</sup> Spartan Motors, Inc., is a manufacturer of motor vehicles and is registered under the laws of the state of Michigan.

This notice of receipt of Utilimaster's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Affected are approximately 9,861 model year 2009-2011 Utilimaster walk-in van-type trucks manufactured between September 1, 2009, and December 22, 2011.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, these provisions only apply to the subject 9,861<sup>3</sup> model year 2009-2011 trucks that Utilimaster no longer controlled at the time it determined that the noncompliance existed.

Utilimaster explains that the noncompliance is that while the sliding doors on the vehicles are equipped with a door latch system with a fully latched position, no door closure warning

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<sup>3</sup> Utilimaster's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt Utilimaster as a vehicle manufacturer from the notification and recall responsibilities of 49 CFR Part 573 for the 9,861 affected vehicles. However, a decision on this petition cannot relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Utilimaster notified them that the subject noncompliance existed.

system, as required by paragraph S4.2.1 of FMVSS No. 206, is installed.

Paragraph S4.2.1 of FMVSS No. 206 requires in pertinent part:

S4.2 Sliding Side Doors.

S4.2.1 Latch System. Each sliding door system shall be equipped with either:

- (a) At least one primary door latch system, or
- (b) A door latch system with a fully latched position and a door closure warning system. The door closure warning system shall be located where it can be clearly seen by the driver. Upon certification a manufacturer may not thereafter alter the designation of a primary latch. Each manufacturer shall, upon request from the National Highway Traffic Safety Administration, provide information regarding such designation...

#### **SUMMARY OF UTILIMASTER'S ANALYSIS AND ARGUMENTS:**

The sliding door latch requirements contained in paragraph S4.2.1 of FMVSS No. 206 were adopted in February 2007 as part of a broader upgrade to the Agency's existing door latch and retention requirements. The standard defines "Primary Door Latch" as "a latch equipped with both a fully latched position and a secondary latched position and is designated as a 'primary door latch' by the manufacturer." It defines "Door Closure Warning System" as "a system that will activate a visual signal when a door latch system is not in its fully latched position and the vehicle ignition is activated." The effective date of these requirements was September 1, 2009. (The load test

requirements of paragraph S4.2.2 of FMVSS No. 206 became effective September 1, 2010; the subject vehicles do comply with the load requirements.)

As set forth in Utilimaster's noncompliance report, Utilimaster determined that the new latch requirements applied to these vehicles, but were not designed into vehicles built after the effective date. (This omission was the result of Utilimaster's previous misinterpretation as to the applicability of the FMVSS No. 206 amendments to these particular vehicles.)

Specifically, the sliding doors on the subject vehicles are equipped with a door latch that does not meet the above-referenced definition of a "primary door latch," because these vehicles lack a secondary latched position. Thus, these vehicles do not meet the paragraph S4.2.1 (a) compliance option. Moreover, these vehicles are not equipped with a "door closure warning system" and, therefore, they do not meet the paragraph S4.2.1 (b) compliance option. In any event, we believe that the omission of a door closure warning system on these vehicles is inconsequential to safety. This is due to the particular characteristics of the sliding doors on these vehicles, which will immediately provide adequate visual (and audible) feedback to the driver to alert him or her in the event a door is unlatched.

The door has approximately 0.315 inches of engagement into the door seal. Therefore, should the sliding door not be in the latched position, it would be readily apparent to the driver before the vehicle is driven.

Even if the driver did not notice the gap in the door prior to the vehicle being driven, these doors would provide immediate visual feedback to the driver as soon as the vehicle begins to move. The sliding doors, on these vehicles, are designed to slide longitudinally on a track when the sliding door handle is activated and a small force is applied in the same longitudinal direction. As a consequence, if the sliding door is not fully closed and latched and the driver is not aware, this fact would become immediately apparent to the driver when the vehicle is accelerated from rest, as the sliding door would glide rearward from the force created by the acceleration. Thus, while these vehicles may not meet the express requirements of paragraph S4.2.1 or the definition of a "door closure warning system," Utilimaster believes they do meet the intent of these requirements. The use of other visual signals, such as a dash-mounted telltale, might be necessary for vehicles with rear sliding doors, such as minivans or other passenger vehicles, but the sliding doors on the subject vehicles are located in the front within plain view of the driver.

In adopting the upgraded sliding door standards in 2007, the Agency stated that it was particularly concerned with children riding in the rear seats of passenger vans (minivans or "MPVs")<sup>4</sup>.

As noted above, these vehicles are used exclusively in commercial applications and are driven exclusively by professional drivers (primarily without a passenger). The commercial application of walk-in vans is highly repetitive in nature. To ensure safety and to maximize productivity, corporations have adopted highly regimented training programs for drivers in addition to requiring them to carry a commercial driver's license. The regimented training for the high majority of commercial applications requires that drivers enter and exit the vehicle from the curb side of the van. The repetitive use of the van results in highly repeatable results from one stop to the next. The likelihood that a driver would move the vehicle with the door left inadvertently open is very low. Moreover, the likelihood that the driver would be ejected from the driver's seat, through a curb-side door, left unintentionally unlatched, is even less probable. These drivers must adhere to corporate policies as they relate to operating the vehicle. For example, UPS has strictly enforced requirements for the drivers to always have the seatbelts fastened when the vehicle is in

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<sup>4</sup> 72 FR 5387

motion. Walk-In vans with sliding doors very similar in design to those on the subject vehicles have been in use for several decades. We are not aware of a driver or passenger ever having been ejected from, or fallen through an open sliding cab door, of our vehicles, while the vehicle was in motion.

The sliding doors on these vehicles meet all load test and inertial requirements of FMVSS No. 206, paragraph S4.2. Therefore, this noncompliance will not increase the risk of occupant ejection under conditions addressed by such requirements.

In summation, Utilimaster believes that the described noncompliance of its vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

**COMMENTS:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods:

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.

b. By hand delivery to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except Federal Holidays.

c. Electronically: by logging onto the Federal Docket Management System (FDMS) website at <http://www.regulations.gov/>. Follow the online instructions for submitting comments. Comments may also be faxed to 1-202-493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in



the Federal Register published on April 11, 2000, (65 FR 19477-78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the Federal Register pursuant to the authority indicated below.

**COMMENT CLOSING DATE:** (insert date 30 days after Publication Date).

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.50 and 501.8)

**Issued on: February 13, 2012**

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Claude H. Harris, Director  
Office of Vehicle Safety Compliance

**Billing Code:** 4910-59-P